Zero Draft Report of the Member States Working Group on Strengthening WHO Preparedness for and Response to Health Emergencies (WGPR) charts a course for a potential pandemic treaty

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Update: On 28 October 2021 the Zero Draft Report of the Member States Working Group on Strengthening WHO Preparedness for and Response to Health Emergencies to the special session of the World Health Assembly was published with the Document number A/WGPR/4/3. The report is available here. This report is expected to be discussed at the fourth meeting of the Working group on strengthening WHO preparedness and response to health emergencies which meets from 1-3 November 2021.

On Monday, 25 October 2021 an 18 page advance copy of a Zero Draft Report of the Member States Working Group on Strengthening WHO Preparedness for and Response to Health Emergencies (WGPR) charts was circulated to member states of the World Health Organization (WHO); it is expected this report will be published by WHO on Thursday, 28 October 2021 with translations into all official UN languages. For more background on the WGPR, please see: The long road ahead on WHO discussions on a possible Pandemic Treaty.

Right off the mark, the WGPR report reiterated member states' views that WHO's work in developing a new WHO convention, agreement or other international instrument should be predicated on the realization that the "status quo is unacceptable".

> In line with the dual mandate the WGPR,the discussion focused on (i) the feasibility and degree of impact of recommendations for strengthening pandemic preparedness and response by the following categories: leadership and governance,systems and tools,financing and equity; and (ii) benefits of developing a new WHO Convention, agreement or other international instrument to pandemic preparedness and response. Repeatedly, Member States have returned to two key themes in the discussion, first, that the status quo is unacceptable to anyone and second,that we must be willing to move forward in a flexible way that advances both of the WGPR linked mandates.

In relation to the International Health Regulations (2005), the report stated:

> Member States acknowledged that the IHR (2005) remains an important tool for health emergency preparedness and response and the need to strengthen IHR implementation, compliance and accountability. Member States also noted that there is value in exploring the role of existing tools and mechanisms available to WHO for implementing relevant recommendations.

With respect to a convention, the report noted:

> In accordance to its mandate under WHA Decision 74.16, this report focuses on the assessment of the benefit of a new WHO Convention, agreement and other international instrument on pandemic preparedness and response to be submitted to the World Health Assembly Special Session (WHASS) 29 November – 1 December 2021. The benefits of a new WHO Convention, agreement and other international instrument on pandemic preparedness and response could include promoting high level political commitment and whole government whole society, addressing equity, enhancing one health approach, and strengthening health systems and their resilience.

The WGPR provided the following recommendations to the World Health Assembly Special Session:

> a. To task the WGPR to identify the tools to implement the recommendations that fall under the technical work of WHO, further develop targeted IHR amendments, and identify the elements of a potential WHO instrument and modalities of its negotiations.
> b. Towards this, the WGPR may draft and negotiate possible WHA resolutions/decisions to implement the recommendations in order to strengthen WHO preparedness and response to health emergencies.

With respect to strengthening the IHR, the report stated:

> Member States have reiterated their support for the IHR (2005) as a key component of the global health architecture. Many Member States also expressed their support to strengthen the IHR including through implementation, compliance and targeted amendments without re-opening the entire instrument of negotiations; however, there is a need to agree on a process for how these would be identified and what would be addressed.

However, in relation to renegotiation of the entire IHR, the report made this stark comment:

> There was no support from Member States to renegotiate the entire IHR (2005).Member States will need to consider all the above options when discussing the proposals for strengthening IHR and a new instrument,and provide clear direction for the next phase of the work.

The report observed that issues that fell outside the scope of the IHR included equity, equitable access to health countermeasures, research and development, intellectual property and technology transfer; the report noted that while these issues were complex, they formed the "the core of the breakdown in the current system" and were "ideally suited for negotiation under the umbrella of a potential new instrument."

With respect to the recommendation of the Independent Panel For Pandemic Preparedness and Response (IPPPR) on establishing a Global Health Threats Council, the report observed that the "IPPPR recommendation to establish a Global Health Threats Council has not, so far, met with strong support from Member States."

The WGPR report laid out WHO Instruments available for Member States and their potential use:

> The WHO Constitution provides the World Health Assembly with three types of possible instruments:
> (a) The Health Assembly may adopt conventions or agreements, per Article 19 (opt-in)
> (b) The Health Assembly may adopt regulations, per Article 21 (opt-out)
> (c) The Health Assembly may make recommendations, per Article 23 (non-binding)

The report provided this assessment of possible benefits of a pandemic treaty.

> Establishing a new instrument on pandemic preparedness and response under Article 19 of the WHO Constitution could offer a number of benefits. First, an Article 19 instrument would be legally binding on States Parties (as would be the case with Regulations), and this legally binding status offers the potential of greater sustained attention, both political and normative, to the critical issue of pandemic preparedness and response than a non-binding act
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> An opportunity to update and strengthen the leading and coordinating role of WHO in the global health architecture in light of the 21st century global health landscape. Doing so could provide a clear pathway for policy-makersand leaders in pandemic preparedness and response,supporting coherence and avoiding fragmentation at both the national and global levels
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> Addressing equitable access to countermeasures such as vaccines, therapeutics and diagnostics. A framework could facilitate concrete measures and long-term mechanisms to develop, manufacture and scale up new countermeasures through increasing local production,sharing of technology and know-how for broadening manufacturing capacity,and strengthening regulatory systems
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In relation to possible risks of a new instrument to address pandemic preparedness and response, the report provided this analysis:

> The key risks including possible delays, or deadlock due to negotiation; resource and time commitments from intergovernmental negotiations; WHO may be viewed as not having the mandate or leverage for the instrument. However the WHO Constitution expressly provides for the possibility of a new instrument, and WHO had experience managing whole-of-government and whole-of-society instruments, including e.g., the WHO FCTC.
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> There are also structural risk considerations e.g instrument is not drafted correctly, overlap in obligations of State Parties to the IHR and the new instrument and/or lack of harmony between IHR and the new instruments. Some Member States have posed questions for consideration on how to ensure maximum efficiency and effectiveness of current tools while assessing the benefits of a new instrument. Member States also expressed concern over how the "opt-in" nature of an Article 19 convention may reduce the effectiveness of the instrument due to the insufficient signatories. As a result, for a number of Member States, they are open to launching a negotiating process for a potential new instrument, but seeking to preserve in the type of instrument to be finalized as well as the potential for quick wins if some elements are ready to be agreed before a final agreement is adopted, making full use of the legal flexibilities outlined above under the WHO Constitution.

On the way forward, the report noted:

> The WGPR agrees its work covers all aspects of the mandates looking at each topic including both how to use existing tools to close gaps and to develop a new WHO Convention, Agreement or Instrument, pending any additional guidance from WHASS. The WGPR assesses that to be successful, the way forward should include both the initiation of a new instrument negotiation on the basis of article 19 and strengthening IHR including implementation, compliance and targeted amendments to the IHR, as part of a comprehensive approach.

The WGPR requested the endorsement of the Special Session on the following:

> a) To task the WGPR to identify the tools to implement the recommendations that fall under the technical work of the WHO, further develop targeted IHR amendments, and further identify and develop elements of a potential WHO instrument and modalities of its negotiations.
> b) Towards this, the WGPR may draft and negotiate possible WHA resolutions/decisions to implement the recommendations in order to strengthen WHO preparedness and response to health emergencies.

Access to Medicine, Government Funded research, Intellectual Property Rights, Public Goods, Research and Development, WHO WHO-Pandemic Treaty

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SILENCE PROCEDURE HOLDS FOR THE FINAL REPORT OF THE MEMBER STATES WORKING GROUP ON STRENGTHENING WHO PREPAREDNESS FOR AND RESPONSE TO HEALTH EMERGENCIES (WGPR)

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